TAXATION—FEDERAL INCOME TAX—FEDERAL ESTATE TAX DEDUCTIBLE.—The plaintiff, having paid the federal estate tax under the provisions of the War Revenue Act of October 3, 1917 (40 Stat. at L. 300, 324) amending the Act of September 8, 1916 (39 Stat. at L. 756, 777) as amended by the act of March 3, 1917 (39 Stat. at L. 1000, 1002), upon an estate of which they are the executors, paid the federal income tax on that estate, as required by sec. 225 of the Revenue Act of 1918 (40 Stat. at L. 1074), claiming as a deduction the amount paid under the federal estate tax. Upon a refusal to allow the deduction, suit was instituted to recover the amount. *Held,* that the amount paid under the estate tax was deductible from the income tax. *Woodward v. United States* (March 14, 1921) U. S. Ct. of Claims, No. 34734.

The decision may be sustained only by the court's interpretation of sec. 214 of the Revenue Act of 1918, which provides that "there shall be allowed as deductions . . . taxes paid or accrued . . . imposed by the authority of the United States, except income, war profits and excess profits taxes." It is opposed to the theory of the leading case on the subject, that an inheritance tax is not a tax upon the legatee or the corpus of the estate but upon the power of transmitting property by will or descent. *United States v. Perkins* (1895) 163 U. S. 625, 16 Sup. Ct. 1073; *Prentiss v. Eisner* (1920, C. C. A. 2d) 267 Fed. 16. An appeal to the Supreme Court will compel an exact definition of that theory or its practical rejection. See (1920) 30 YALE LAW JOURNAL, 199; Holmes, *Federal Taxes* (1920) 368; (1921) 7 A. B. A. JOUR. 131.

TORTS—NEGLIGENCE—LIABILITY FOR USE OF DANGEROUS AGENCY.—The defendant railroad kindled a fire on its own land for the purpose of burning up dry leaves. The property was near a playground and was crossed by a path which the public were permitted to use at will. Some time after the fire was started, a child, five years old, was discovered in flames on or near the property. The child having died, his administrator brought this action. *Held,* that he should recover, regardless of any implied invitation to the child, because of the defendant's liability for the use of a dangerous agency. *Piraccini v. Director Gen. of Railroads* (1920, N. J.) 112 Atl. 311.

This case is extreme in view of the fact that New Jersey has repudiated the attractive nuisance doctrine and held that a landowner owes no duty to a licensee or trespasser, even though a child, except to refrain from wilfully injuring him. *D. L. & W. Ry. v. Reich* (1898) 61 N. J. L. 635, 40 Atl. 682; *Fleckenstein v. Tea Co.* (1917) 91 N. J. L. 145, 102 Atl. 700. The rule in *Rylands v. Fletcher* (1868) L. R. 3 H. L. 330, has not been generally followed in this country and the dangerous agency doctrine is usually not carried so far. See (1920) 30 YALE LAW JOURNAL, 200; (1916) 25 *id.* 679. For a discussion of the real problem involved in cases like the instant one see COMMENTS (1919) 29 *id.* 223.

TORTS—PRENATAL INJURIES—INFANT ALLOWED TO RECOVER.—While the plaintiff was *en ventre sa mère,* his mother was injured due to the defendant's negligence in leaving a coal hole uncovered; and the plaintiff, born eleven days later, was thereby permanently injured. The lower court overruled the defendant's demurrer to the complaint. *Held,* that the judgment should be affirmed. Clarke, P. J. and Page, J., *dissenting.* *Drobner v. Peters* (1921) 194 App. Div. 696, 186 N. Y. Supp. 278.

The instant case is notable in that it seems to be the first one to allow recovery under these circumstances. See 14 R. C. L. 218; 45 L. R. A. (N. S.) 625, note. For a discussion recommending recovery if, at the time of the injury, the child could have been viable see COMMENTS (1917) 26 YALE LAW JOURNAL, 315. For a discussion of the decision of the lower court see NOTES (1921) 34 HARV. L. REV. 549.